

WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT

V.

Board Policies Covering All Classified Employees Not In A Bargaining Unit

Board Policy No. 4256: LEAVES OF ABSENCE

- A. The leaves herein are granted in compliance with the minimum requirements of the Education Code. Unless the number of days of leave set forth in this Policy is greater than the minimums set forth in the Education Code, only the minimums in the Education Code are granted.
- B. The leaves included under paragraph D are leaves that must be granted by the District as long as all express conditions are satisfied. The leaves under paragraph E are leaves that may be granted within the sole discretion of the District.
- C. Only the Superintendent has the authority of the District to approve verifications of leaves or make final decisions on leaves. The Superintendent may prepare and distribute leave forms as long as those forms do not violate the paragraphs of this Policy. The Superintendent may adopt verification procedures to implement the paragraphs of this Policy as long as those verification procedures do not violate the paragraphs of this Policy.
- D. 1. Sick Leave (Education Code section 45191)
 - a. Every classified employee on a full-time basis shall be entitled to twelve (12) days leave of absence for illness or injury. A classified employee employed for a full workweek, but less than a full fiscal year, is entitled to that proportion of 12 days as the number of months he/she is employed bears to twelve (12).
 - b. Sick leave for a part-time or regular hourly employee shall be on the basis of his/her daily hours prorated one (1) day per month of service.
 - c. Credit for illness and injury need not be accrued prior to taking such leave by the employee and such leave may be taken at any time during the year. However, a new employee of the District shall not be eligible to take more than six (6) days or the proportionate number to which he/she may be entitled, until the first day of the calendar months after completion of six (6) months of service with the District.
 - d. If the employee does not utilize the full amount of leave allowed in any year, the amount not taken shall be accumulated from year to year so long as he/she remains in the employment of the District.

- e. Employees shall be required to present a licensed California Physician's or Christian Science Practitioner's certificate verifying the personal illness or injury after five (5) consecutive working days of absence, or sooner if so determined by the Superintendent.

2. Extended Sick Leave (Education Code section 45196)

When an employee is absent from his/her duties on account of illness or an accident for a period of five (5) months or less, the amount deducted from the salary due him/her for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill his/her position during his/her absence.

- a. The extended leave provisions pertain to each illness or accident of the employee and shall commence on the first day of absence from his/her duties.
- b. The extended leave provision applies to whether the accident or illness occurred on or off the job, except that if the accident or illness was suffered as a result of the job entitlement shall commence after the sixty (60) working days paid leave provided in provision 4.
- c. All other leave benefits will be exhausted before the sum paid a substitute is deducted from an employee's wages.

3. Pregnancy Leave (Education Code section 45193)

- a. Employees are entitled to use sick leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, or recovery therefrom. Such leave shall not be used for child care, child rearing, or preparation for child bearing, but shall be limited to those disabilities as set forth above.
- b. The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and the employee's physician; however, the District may require a verification of the extent of disability through consultation with the employee's physician or through a physical examination of the employee by a physician appointed by the District.
- c. The date on which the employee shall resume duties shall be determined by the employee on leave and the employee's physician; however, the District may require a verification of the extent of disability through consultation with the employee's physician or through a physical examination of the employee by a physician appointed by the District as to

the employee's ability to return to normal duty.

- d. The employee on leave for pregnancy disability shall be entitled to return to a position comparable to that held at the time the leave commences.

4. Industrial Accident And Illness Leave (Education Code section 45192)

- a. An employee shall be eligible for industrial accident and illness leave for personal illness or injury which has qualified for workers' compensation under the provisions of the State Compensation Insurance Fund.
- b. An employee who has sustained a job-related injury or illness shall report the same to his/her immediate supervisor on the appropriate District form within twenty-four (24) hours of the injury or illness. To qualify for industrial accident or illness leave, an employee shall be examined and treated, if necessary, by a physician designated by the District or the District's industrial accident insurance carrier. Whoever may be designated to treat the employee, if necessary, the District retains the right to have the employee thereafter examined by a physician designated by the District to assist in determining the length of time during which the employee will be temporarily unable to perform assigned duties and the degree to which a disability or illness is attributable to the injury and job.
- c. Industrial accident or illness leave shall be subject to the following limitations:
 - (1) Such leave shall not exceed sixty (60) days during which schools of the District are required to be in session or when the employee would otherwise have been performing work for the District in any one fiscal year for the same industrial accident or illness.
 - (2) Such leave shall not be accumulated from year to year.
 - (3) Such leave shall commence on the first day of authorized absence and shall be reduced by one (1) day for each day of authorized absence regardless of a temporary disability indemnity award.
 - (4) When such leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due for the same injury or illness.
 - (5) For any days of absence from duty as a result of the same industrial accident or illness, the employee shall endorse to the District any temporary disability indemnity checks received by him/her which could make the total compensation from both the District and such

disability indemnity exceed 100% of the amount the employee would have received as salary had there been no industrial accident or illness. If the employee fails to endorse to the District any temporary disability indemnity checks received on account of the industrial accident or illness as provided herein, the District shall deduct from the employee's salary warrant the amount of such disability indemnity actually paid to and retained by the employee.

- (6) Upon conclusion of such leave, an employee may utilize any available personal illness or injury leave providing that any personal illness or injury leave utilization, when combined with any temporary disability indemnity shall not exceed 100% of the amount the employee would have received as salary had there been no industrial accident or illness.
- (7) Any employee receiving benefits for such leave shall, during the period of injury or illness, remain within the State of California unless the District previously authorized travel outside the State.

d. Any employee shall be permitted to return to service following an industrial accident or illness only upon presentation of a release from the authorized worker's compensation physician certifying the employee's ability to return to his/her position without restrictions or detriment to the employee's physical and emotional well-being, and the health and safety of others.

e. When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his/her position, he/she shall be placed on a re-employment list for a period of thirty-nine (39) months. When available, during the 39-month period, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other available candidates except for a re-employment list established because of lack of work or lack of funds, in which case he/she shall be listed in accordance with appropriate seniority regulations. An employee who has been placed on a reemployment list, as provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed for cause.

5. Personal Necessity Leave (Education Code section 45207)

- a. An employee may use no more than seven (7) days of accumulated sick leave per school year in case of personal necessity.
- b. For purposes of this provision, "personal necessity" is defined as:

- Death or serious illness of a member of the employee's immediate family;
- Accident involving his person or property, or the person or property of a member of his immediate family;
- Religious observance.
- Attendance at birth of child during regular workday; or
- An emergency requiring prompt response, which response cannot reasonably be made by anyone other than the employee and cannot be made at any time other than during the employee's working hours.

c. For purposes of this provision, "personal necessity" shall not include:

- Pursuit of business, financial, or economic interests of the employee;
- Vacation or other recreational pursuits; or
- Social events; and
- Any concerted refusal to work

d. With the exception of two (2) days per year, the Superintendent may, upon request, require proof of the personal necessity, and in all cases, except death or serious illness of the employee's immediate family for accidents involving the employee's person or property or that of the employee's immediate family, the employee must provide the Superintendent with 24 hours notice prior to the commencement of the absence.

e. Effective January 1, 2000, pursuant to Labor Code section 233, an employee may use no more than six (6) days in any calendar year of accumulated sick leave to attend to the illness of a child, parent, or spouse of the employee. All conditions and restrictions for use of sick leave by the employee shall apply.

6. Bereavement Leave (Education Code section 45194)

a. An employee shall be eligible for a minimum of three (3) days bereavement leave of absence, or five (5) days leave of absence if out-of-

state travel is required, without loss of salary on account of the death of any member of his/her immediate family.

- b. For the purpose of this Policy, immediate family shall be limited to the mother, father, mother-in-law, father-in-law, grandmother, grandfather, or grandchild of the employee or of the spouse of the employee and the spouse, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee, or any relative living in the immediate household of the employee.

7. Jury Duty Leave (Education Code section 44036 and 44037)

Employees shall be eligible for leave of absence when regularly called for jury duty in the manner provided for by law subject to the following provisions:

- a. Subject to the provisions below, the employee, while serving on jury duty, shall receive his/her regular earnings from the District and shall transmit to the District all fees, exclusive of mileage received from jury service.
- b. As a matter of general policy, the District does not normally encourage employees to seek exemption from or postponement of jury duty; the District will cooperate with the employee in any appropriate manner. Employees, who would otherwise be ineligible for paid leave under these provisions, who are denied an exemption or postponement after a good-faith application for same, shall be eligible for paid leave for a period not to exceed the normal tour of jury service for the particular judicial jurisdiction.
- c. An employee on jury leave for one semester or less shall be entitled to return to the same assignment held at the time such leave commenced, unless such assignment had been discontinued, in which case the employee shall be entitled to a comparable position. An employee on jury leave for more than one semester shall be entitled to return to an assignment comparable to the assignment held at the time such leave commenced. In any case, the assignment of the employee upon return to work shall be comparable to that held at the time jury leave began.
- d. No more than one classified employee or two (2) percent of the classified staff, whichever is greater, shall be granted jury duty leave with pay at any one time.

8. Additional Leave For Nonindustrial Accident Or Illness; Reemployment Preference (Education Code section 45195)

- a. A permanent employee of the classified service who has exhausted all

entitlement to sick leave, vacation, compensatory overtime, or other available paid leave and who is absent because of nonindustrial accident or illness may be granted additional leave, paid or unpaid, not to exceed six months. The Board may renew the leave of absence, paid or unpaid, for two additional six-month periods or such lesser leave periods that it may provide but not to exceed a total of 18 months.

- b. An employee, upon ability to resume the duties of a position within the class to which he was assigned, may do so at any time during the leaves of absence granted under this Policy and time lost shall not be considered a break in service. He shall be restored to a position within the class to which he was assigned and, if at all possible, to his position with all the rights, benefits and burdens of a permanent employee.
- c. If at the conclusion of all leaves of absence, paid or unpaid, the employee is still unable to assume the duties of his position, he shall be placed on a reemployment list for a period of 39 months.
- d. At any time, during the prescribed 39 months, the employee is able to assume the duties of his position he shall be reemployed in the first vacancy in the classification of his previous assignment. His reemployment will take preference over all other applicants except for those laid off for lack of work or funds in which case he shall be ranked according to his proper seniority. Upon resumption of his duties, the break in service will be disregarded and he shall be fully restored as a permanent employee.

E. The District may grant, within its sole discretion and pursuant to any of its Policies, leaves of absence for the following reasons:

1. Special Leave

A special leave of absence with or without pay may be granted by the Board upon the recommendation of the Superintendent.

Legal Reference:

Education Code sections 45190, 45191, 45196, 45192, 45193, 45207,
45194, 44036, 44037, 45195

Labor Code section 233

Date Policy Adopted By The Board: March 14, 2000

Date Policy Revised By The Board: October 9, 2003